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PART IV

Section I-A

BILLS INTRODUCED IN THE CENTRAL LEGISLATURE WHICH IF ENACTED WILL APPLY TO MYSORE AND THE REPORTS OF SELECT COMMITTEES, IF ANY, THEREON.

NOTIFICATION.

No. L. D. 3030 Legis. 3-50-12, dated Bangalore, 5th January 1951.

Ordered that the following Bills Nos. 95 to 98 of 1950, namely, the Indian Income-Tax (Amendment) Bill, 1950, the Essential Supplies (Temporary Powers) Amendment Bill, 1950, the Jallianwala Bagh National Memorial Bill, 1950, and the Telegraph Wires (Unlawful Possession) Bill, 1950, published in the *Gazette of India*, Part II, Section 2, dated the 9th December 1950, be republished in the *Mysore Gazette*, for general information.

By Order of

His Highness the Maharaja,

B. S. PUTTASWAMY,

Legal Remembrancer and Secretary to Government, Law Department.

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PART II—SECTION 2

BILLS AND REPORT OF SELECT COMMITTEES ON BILLS

PARLIAMENT OF INDIA

The following Bills were introduced in Parliament on the 7th December, 1950 :—

BILL No. 97 OF 1950

A Bill to provide for the erection and management of a National Memorial to perpetuate the memory of those killed or wounded on the 13th day of April, 1919, in Jallianwala Bagh.

BE it enacted by Parliament as follows :—

1. *Short title.*—This Act may be called the Jallianwala Bagh National Memorial Act, 1950.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(*a*) "Memorial" means the Jallianwala Bagh National Memorial to perpetuate the memory of those killed or wounded on the 13th day of April, 1919, on the site known as the Jallianwala Bagh, Amritsar;

(*b*) "Trust" means the Trust for the erection and management of the Memorial;

(*c*) "Trustees" means the Trustees of the Jallianwala Bagh National Memorial.

3. *Objects of the Trust*—The objects of the Trust shall be—

(*a*) to erect and maintain suitable buildings, structures and parks at or near the site of the Jallianwala Bagh in the city of Amritsar, to perpetuate the memory of those who were killed or wounded on the 13th day of April, 1919, on the said site;

(*b*) to acquire lands, buildings and other properties for the purposes of the Trust; and

(*c*) to raise and receive funds for the purposes of the Memorial.

4. *Trustees of the Jallianwala Bagh National Memorial.*—(*1*) The Trustees of the Jallianwala Bagh National Memorial shall be the following, namely :—

(*a*) Shri Jawaharlal Nehru,
(*b*) Sardar Vallabhbhai Patel,
(*c*) Maulana Abul Kalam Azad,
(*d*) the President of the Indian National Congress,
(*e*) the Governor of the State of Punjab;
(*f*) the Chief Minister of the State of Punjab, and
(*g*) three persons nominated by the Central Government.

(*2*) The Trustees shall be a body corporate with perpetual succession by the name of the "Trustees of the Jallianwala Bagh National Memorial" and a common seal, and in that name shall sue and be sued, and shall have power to acquire and hold property, to enter into contracts and to do all acts necessary for and consistent with the purposes of this Act.

5. *Term of office of Trustees.*—(*1*) The three Trustees mentioned in clauses (*a*), (*b*) and (*c*) of sub-section (1) of section 4 shall be Trustees for life.

(2) Every Trustee nominated under clause (g) of the said sub-section shall be a Trustee for a period of five years, and shall be eligible for renomination.

6. *Property vested in Trustees.*—All the property and funds set out in the Schedule to this Act and all other property, whether movable or immovable, which may hereafter be given, bequeathed or otherwise transferred for the purposes of the Memorial or acquired for the said purposes shall vest in the Trustees.

7. *Power of Trustees to appoint committee of management.*—(1) For the purposes of managing the affairs of the Trust, the Trustees may, by resolution passed at a meeting, appoint a committee of management, and entrust to it such powers, duties and functions, under such directions and limitations. as may be defined by such resolution.

(2) The Trustees may appoint any persons as members of the committee of management, whether such persons are Trustees or not, and may, from time to time, vary or rescind any resolution passed by it under this section.

8. *Validity of acts of Trustees not to be questioned by reason of vacancy, etc.*—No act of the Trustees shall be deemed to be invalid merely by reason of any vacancy in, or any defect in the constitution of, the body of Trustees.

9. *Power to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner in which funds belonging to the Memorial shall be kept, deposited or invested;

(b) the mode of authentication of orders for payment of money by the Trustees;

(c) the form in which accounts shall be kept by the Trustees and the audit and publication of such accounts;

(d) the laying out, erection, improvement, maintenance and management of the Memorial and the care and custody of the properties thereof;

(e) the conditions under which the public shall have access to the Memorial or particular parts thereof and the regulation of the conduct of persons entering the precincts of the Memorial;

(f) the preservation of, and the prevention of injury to or interference with, any property vested in the Trustees and for the prevention of persons from trespassing into any particular part of the Memorial.

(3) A rule made under this section may provide that a breach of any rule made under clauses (e) and (f) of sub-section (2) shall be punishable with fine which may extend to one hundred rupees.

10. *Power of Trustees to make regulations.*—The Trustees may make regulations consistent with this Act for all or any of the following purposes, namely:—

(a) the manner in which meetings of the Trustees shall be convened, the quorum for the transaction of any business thereat and the procedure at such meetings;

(b) the manner in which a majority decision of the Trustees shall be obtained by circulation to the Trustees of the matter requiring decision;

(c) the term of office of members of the committee of management, their powers and duties, and the circumstances in which and the conditions subject to which such powers and duties may be exercised;

(d) the appointment of such officers and servants as may be necessary for the purposes of the Trust, and their terms and conditions of service.

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THE SCHEDULE

(*See* section 6)

[*Properties vested in Trustees at commencement of Act.*]

PART I—IMMOVABLE PROPERTIES.

1. The piece of land known as the Jallianwala Bagh, Amritsar, measuring 49 kanals 17 marlas, that is to say, 6 37/160 acres or thereabouts.

2. Two pieces of land, one measuring 49½ by 31 feet or thereabouts, and the other 35 by 9¼ yards on the east and by 8 yards on the west or thereabouts, and conveyed to the then Trustees of the Memorial by a deed of sale, registered on the 20th September, 1920 as No. 5960, Bahi No. 1, Volume No. 1572, pages 19 to 46 of the Office of the Registrar, Amritsar.

3. All the buildings and other structures standing on the lands referred to in items 1 and 2 above.

PART II—MOVABLE PROPERTIES.

Item No.	*Description of investments*	*Amount*		
		Rs.	A.	P.
1.	Government of Madras, 3% loan, 1952, No. D.H. 000034	25,000	0	0
2.	Government of Madras, 3% loan, 1952, No. D.H. 000035	25,000	0	0
3.	Fixed Deposit in the Central Bank of India, Ltd., Amritsar	1,10,000	0	0
4.	Interest accrued on Item 3 up to 14th November, 1950	2,750	0	0
5.	In current account in the Central Bank of India, Ltd., Amritsar	6,586	1	1
6.	Government of Uttar Pradesh loan, 1960, purchased through the Punjab National Bank, Amritsar	49,675	1	4
7.	Amount placed in sundries in the Punjab National Bank, Amritsar	4,700	12	8
8.	Fixed Deposit in the Bank of Nagpur, Ltd., Wardah, under receipt No. 00518	1,13,270	5	6
9.	Interest on Item 8 above	3,681	4	0
10.	Fixed Deposit in the Bank of Nagpur, Ltd., Wardah, under receipt No. 00519	40,336	13	0
11.	Interest on Item 10 above	1,310	14	0
12.	In current account with Messrs. Bachharaj and Co., Ltd., Bombay	9,573	6	0
13.	Cash in hand on 24th November, 1950	1,872	9	9
14.	Moneys due from Government by way of refund of excess income-tax	Amount not known.		

STATEMENT OF OBJECTS AND REASONS

On the 27th December, 1919, the Indian National Congress passed a resolution at Amritsar that the Jallianwala Bagh be acquired with a view to raising a memorial therein and perpetuating the memory of those who

were killed or wounded in that place on the 13th April, 1919. In pursuance of this resolution, the Jallianwala Bagh Memorial Fund was started in 1919 and, out of the major portion of the subscriptions collected, the site of the Jallianwala Bagh was acquired. Trustees were appointed in whom the property so acquired and the fund so collected were vested. Shri Jawaharlal Nehru and Sardar Vallabhbhai Patel are the present Trustees.

The object of this Bill is to place the Trust on a permanent, statutory basis, establish a body corporate to be known as the Trustees of the Jallianwala Bagh National Memorial, transfer to that body all the property and funds now vesting in the present Trustees and confer upon that body all necessary powers for carrying out the objects of the Trust.

B. R. AMBEDKAR

NEW DELHI;
The 4th December, 1950.

BILL* NO. 95 OF 1950

A Bill further to amend the Indian Income-tax Act, 1922.

BE it enacted by Parliament as follows:—

1. *Short title.*—This Act may be called the Indian Income-tax (Amendment) Act, 1950.

2. *Amendment of section 9 (1), Act XI of 1922.*—To sub-section (*1*) of section 9 of the Indian Income-tax Act, 1922 (hereinafter referred to as the said Act), the following *Explanation* shall be added, and, subject to the provisions of section 3 of this Act, shall be deemed always to have been added, namely:—

"*Explanation.*—For the purposes of clause (*iv*) of this sub-section, the expression "annual charge" does not include any tax in respect of property or income from property levied by a local authority or a State Government or the Central Government."

3. *Section 2 not to apply in certain cases.*—Where before the 7th day of October, 1950, the Supreme Court has, on an appeal in respect of the assessment of an assessee for any particular year, held that any tax paid by that assessee in respect of the relevant previous year is an "annual charge not being a capital charge" within the meaning of clause (*iv*) of sub-section (*1*) of section 9 of the said Act, then nothing contained in section 2 of this Act shall apply to the assessment of such assessee for that particular year.

4. *Special procedure for revision in certain cases.*—Where in respect of any assessment of an assessee under the head "Income from property", other than an assessment referred to in section 3, an allowance has, between the 26th day of May, 1950, and the 7th day of October, 1950, been made by an Income-tax authority or the Appellate Tribunal in respect of any municipal or other taxes levied by a local authority or a State Government as an annual charge not being a capital charge, the Income-tax Officer shall revise the assessment by excluding such allowance, and if, in consequence of such revision, any tax is found payable by the assessee, the Income-tax Officer shall serve on the assessee a notice of demand specifying the sum so payable, and such

* The President has, in pursuance of clause (1) of article 117 and clause (1) of article 274 of the Constitution of India, recommended to Parliament the introduction of the Bill.

notice of demand shall be deemed to be issued under section 29 of the said Act, and the provisions of the said Act shall apply accordingly.

5. *Amendment of section 9 (2), Act XI of 1922.*—(*1*) As from the 1st day of April, 1951, for sub-section (*2*) of section 9 of the said Act, the following sub-section shall be substituted, namely :—

"(*2*) For the purposes of this section, the annual value of any property shall be deemed to be the sum for which the property might reasonably be expected to let from year to year :

Provided that where the property is in the occupation of the owner for the purposes of his own residence and the aforesaid sum exceeds ten per cent of the total income of the owner, the annual value of the property shall be deemed to be ten per cent of such total income :

Provided further that where the property is in the occupation of a tenant and the taxes levied by any local authority in respect of the property are, under the law authorising such levy, payable wholly by the owner or partly by the owner and partly by the tenant—

(*a*) one-half of the total amount of such taxes or one-eighth of the annual value of the property, whichever is less, shall, notwithstanding anything contained in such law, be deemed to be the tenant's liability for such taxes, and

(*b*) in determining the annual value of the property with reference to the rent payable by the tenant, a deduction shall be made equal to that part, if any, of the tenant's liability which is borne by the owner."

(*2*) The amendment made by sub-section (*1*) shall apply to all assessments for the year ending on the 31st day of March, 1952, and for any subsequent year.

6. *Repeal of Ordinance XXVIII of 1950.*—(*1*) The Indian Income-tax (Amendment) Ordinance, 1950 (XXVIII of 1950), is hereby repealed.

(*2*) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by this Act, as if this Act were in force on the day on which such thing was done or action was taken.

STATEMENT OF OBJECTS AND REASONS

The object of the Bill is to replace the Indian Income-tax (Amendment) Ordinance, 1950 (XXVIII of 1950) and also to provide, with effect from the assessment year 1951-52, for treating a moiety of the aggregate amount of municipal or other local taxes levied by a local authority in respect of the property as the tenant's burden which would be taken into account in determining the annual letting value on the basis of the full rent payable by the tenant.

The question of allowing the municipal and other property taxes as a deduction in computing the income chargeable under section 9 of the Indian Income-tax Act, 1922, had been considered by the Legislature on more than one occasion, and the decision on each occasion was that no such allowance

should be made. The Supreme Court, however, held recently that the expression "annual charge not being a capital charge" occurring in section 9 (*1*) (*iv*) of the Act was wide enough to cover such taxes. It is proposed that the benefit of this interpretation should be given only in the two particular assessments which were the subject-matter of appeal to the Supreme Court. It would be anomalous to give the benefit of this interpretation in the open cases while a large number of assessees whose assessments had become final and conclusive and who had accepted the law as intended by the Legislature during all these years would have been deprived of the benefit.

It is, however, proposed in clause 5 of the Bill that a moiety of the aggregate local taxes should, notwithstanding any provision in any municipal or other law, be treated as the tenant's liability, up to a limit of twelve and a half per cent of the amount of the annual value. The effect of regarding a part of the tax as the tenant's burden would be that, where, under the terms of a particular lease, the tenant has either shifted his burden entirely to the shoulders of the landlord or is bearing less than the assumed burden, the actual rent payable by him under the lease would be deemed to include a portion on account of taxes, and allowance would be made accordingly.

C. D. DESHMUKH.

NEW DELHI;
The 10th November, 1950.

NOTE ON CLAUSE 5

The examples below illustrate how the annual value is to be determined under the new proviso to section 9 (*2*) of the Income-tax Act where local taxes are payable in respect of the property.

I. The rent payable by the tenant is Rs. 6,000 per annum. The total amount of local taxes payable in respect of the property is Rs. 600, of which Rs. 200 is paid by the tenant direct to the local authority, in addition to the rent of Rs. 6,000 paid to the owner.

Half the total amount of local taxes, *i.e.*, Rs. 300 is the tenant's liability, of which the owner bears Rs. 100. Accordingly, in determining the annual value with reference to the rent payable, Rs. 100 will be deducted from Rs. 6,000, and the annual value will be taken as Rs. 5,900.

II. The rent payable by the tenant is Rs. 6,000 per annum. The total amount of local taxes payable in respect of the property is Rs. 1,800, of which Rs. 800 is paid by the tenant direct to the local authority, in addition to the rent of Rs. 6,000 paid to the owner.

Since half the total amount of local taxes, *i.e.*, Rs. 900, is more than one-eighth of the annual value, this one-eighth will be treated as the tenant's liability.

If x is the annual value, $x/8$ is the tenant's liability, of which the tenant bears Rs. 300 and the owner bears Rs. $x/8$—300. Accordingly, the annual value—

$$x = 6{,}000 - \left(\frac{x}{8} - 300\right);$$

$$i.e.\ \frac{9x}{8} = 6{,}300;$$

$$i.e.\ x = 5{,}600.$$

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BILL NO. 98 OF 1950

A Bill to regulate the possession of telegraph wires and to provide for the punishment of the offence of unlawful possession thereof.

BE it enacted by Parliament as follows:—

1. *Short title, extent and commencement.*—(*1*) This Act may be called the Telegraph Wires (Unlawful Possession) Act, 1950.

(*2*) It extends to the whole of India.

(*3*) It shall come into force in any State on such date as the Central Government may, by notification in the Official Gazette, appoint for such State, and different dates may be appointed for different States.

2. *Definitions.*—In this Act,—

(*a*) "prescribed" means prescribed by rules made under this Act;

(*b*) "telegraph wire" means copper wire of any one of the following gauges commonly used in telegraph lines, namely, one hundred and fifty pounds per mile, two hundred pounds per mile, or three hundred pounds per mile.

3. *Duty to declare possession of telegraph wires.*—Every person in possession of telegraph wires shall, within six months from the commencement of this Act, make a declaration in writing, in such form and to such authority as may be prescribed, stating the quantity of telegraph wires in his possession.

4. *Duty to have telegraph wires converted or sold.*—Every person in possession of telegraph wires which exceed ten pounds in weight shall, within one year from the commencement of this Act, have the whole of the quantity as is in excess of ten pounds converted into ingots:

Provided that it shall be open to any such person to sell the whole or any part of the telegraph wires in his possession at such price and to such authority as may be prescribed.

5. *Penalty for unlawful possession of telegraph wires.*—Whoever is found or is proved to have been in possession of any quantity of telegraph wires which the court has reason to believe to be, or to have been, the property of the Posts and Telegraphs Department of the Central Government shall, unless he proves that the telegraph wires came into his possession lawfully, be punishable with imprisonment for a term which may extend to five years, or with fine, or with both:

Provided that where a person has made a declaration under section 3 in relation to any quantity of telegraph wires, the burden of proving, in respect of the quantity so declared, that it came into his possession lawfully, shall not be on such person.

6. *Penalty for contravention of provisions of section 3 or section 4.*—Any person who fails to make a declaration as required by section 3 or fails to comply with the provisions of section 4 shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

7. *Cognizance of offences.*—(*1*) No court shall take cognizance of any offence punishable under this Act, save on complaint made by or under the authority of the Central Government or by an officer specially empowered in this behalf by that Government.

(*2*) No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under this Act.

8. *Power to make rules.*—(*1*) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(3) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the form in which, and the authorities to which, declarations under section 3 may be made ;

(*b*) the authorities to which, and the prices at which, telegraph wires may be sold under section 4.

STATEMENT OF OBJECTS AND REASONS

Thefts of copper wires used in telegraph lines have been so rampant that tele-communications in several parts of the country, particularly in West Bengal, Bihar, Orissa and Mysore were considerably dislocated during the last two years. With the co-operation of the State Governments, the Posts and Telegraphs Department have been making energetic efforts to prevent such crimes as well as to punish the offenders. In bringing the offenders to book in a court of law, however, they have been experiencing great difficulty in establishing the identity of the stolen property, especially as large quantities of copper wires had been sold to the public by the Disposals Directorate since the termination of the war. Many offenders have escaped due only to the failure to prove in court that the wires found in their possession were stolen from the Posts and Telegraphs Department. It is apprehended that such thefts are engineered and organised systematically, and that the situation might deteriorate if the prosecutions continue to fail.

2. The copper wires used in telegraph lines are of distinctive gauges, *viz.*, 150 lbs., 200 lbs. and 300 lbs. per mile and except for the stocks sold by the Disposals Directorate, wire of these gauges is not in the market. It would not, therefore, be unreasonable to presume that any person found in possession of copper wire of any of these gauges came into such possession unlawfully, except in the case of persons who purchased them from Disposals stock.

3. The present Bill seeks to make unlawful possession of telegraph wires an offence punishable with imprisonment for five years or with fine or with both and placing the burden of proving lawfulness of possession on the accused.

RAFI AHMAD KIDWAI.

NEW DELHI ;

The 18th November, 1950.

BILL NO. 96 OF 1950

A Bill further to amend the Essential Supplies (Temporary Powers) Act, 1946.

BE it enacted by Parliament as follows :—

1. *Short title.*—This Act may be called the Essential Supplies (Temporary Powers) Amendment Act, 1950.

2. *Amendment of section 3, Act XXIV of 1946.*—In section 3 of the Essential Supplies (Temporary Powers) Act, 1946,—

(*a*) in sub-section (*1*), for the words "notified order" the word "order" shall be substituted;

(*b*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) An order made under sub-section (*1*) shall,—

(*a*) in the case of an order of a general nature or affecting a class of persons, be notified in the Official Gazette; and

(*b*) in the case of an order affecting an individual person, be served on such person—

(*i*) by delivering or tendering it to that person, or

(*ii*) by affixing it on the outer door or some other conspicuous part of the premises in which that person lives."

3. *Repeal of Ordinance XXXI of 1950.*—(*1*) The Essential Supplies (Temporary Powers) Amendment Ordinance, 1950 (XXXI of 1950) is hereby repealed.

(*2*) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

(*3*) References in section 2 of this Act to any provision of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946) shall be construed as references to that provision as in force immediately before the commencement of the said Ordinance.

STATEMENT OF OBJECTS AND REASONS

Power to make orders under section 3 of the Essential Supplies (Temporary Powers) Act, 1946, in respect of procurement of foodgrains, etc., has been delegated to the district magistrates and sub-divisional officers. These officers have to make countless orders under section 3 requiring stockholders individually to sell their stocks of foodgrains to specified persons. Under section 3 of the Act, such orders have to be published in the Official Gazette. The publication in the Official Gazette of the voluminous number of orders that may have to be made by these officers would naturally be cumbrous and inconvenient. Moreover, the object of the order is, in certain cases, likely to be delayed or defeated by the unavoidable loss of time involved in completing the formality of the publication of the order in the Official Gazette. The purpose of providing that an order under the Essential Supplies (Temporary Powers) Act should be notified in the Gazette is to give notice to the persons affected. In the case of orders which are to be served on individuals, it is enough if the individual affected is notified so that he may have an opportunity of complying with it or objecting against it. An Ordinance was, therefore, issued wherein it was provided that orders against individuals need not be published in the Official Gazette, though orders of a general nature will continue to be notified in the Gazette as before. The object of the present Bill is to convert the Ordinance into an Act of Parliament.

K. M. MUNSHI.

NEW DELHI;
The 1st December, 1950.

M. N. KAUL,
Secretary.

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